

TESTIMONY OF

MR. GARY MOTSEK

ASSISTANT DEPUTY UNDER SECRETARY OF DEFENSE

OFFICE OF PROGRAM SUPPORT

OFFICE OF THE UNDER SECRETARY OF DEFENSE

(ACQUISITION, TECHNOLOGY & LOGISTICS)

BEFORE THE UNITED STATES HOUSE OF REPRESENTATIVES

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS,

COMMITTEE ON ARMED SERVICES

April 1, 2009

Chairman Snyder, Ranking Member Wittman, and Members of the Committee, thank you for the opportunity to appear before you today to discuss improvements we have made with respect to contingency contracting management and oversight, and our way ahead. At your request, I will highlight our progress in the implementation of the interagency Memorandum of Understanding (MOU) regarding contracting in Iraq and Afghanistan, as required by Section 861 of the National Defense Authorization Act for Fiscal Year 2008. My testimony will expand upon the information included in the report required under paragraph (d) (2) of Section 861, which was submitted last month.

As you know, the Department of Defense (DoD) established my office, the Office of the Assistant Deputy Under Secretary of Defense for Program Support, in October 2006 to oversee DoD efforts to comply with congressional direction set forth by Section 854 of the Fiscal Year 2007 National Defense Authorization Act. As required by Section 854, we are revising and developing new joint policies in each of the three areas designated – requirements definition, contingency program management and contingency contracting. Before I cover our status on implementing Section 861, I'd like to begin by providing an overview of some of the broader efforts we currently have underway.

First, to provide oversight and synchronization of the implementation of all the operational contract support efforts, I, along with the Vice Director of the Directorate for Logistics, Joint Staff, J-4, have institutionalized the "Section 854 General Officer Steering Committee (GOSC)". The GOSC consists of Military Department representatives and defense agency senior procurement executives who meet regularly to oversee and synchronize the implementation of joint policies developed under section 2333 of title 10.

Secondly, to ensure we have a single in-theater program manager providing oversight and management of contracts and contractors, we have

institutionalized a planning and coordination structure for future contingencies. This organization, the Joint Contingency Acquisition Support Office (JCASO), is building the capability to perform program management and operational synchronization of all theater related contracting support efforts. On October 20, 2008, DoD fielded the provisional JCASO organization, thus meeting its end of FY 2008 target goal ahead of schedule. We have developed a concept of operations for the JCASO and have begun exercising the concept. JCASO conducted a pilot implementation of the concept during EUCOM exercise Austere Challenge in April 2008 and will take part in two more exercises this spring: Exercise Terminal Fury '09 and Exercise Austere Challenge '09. Full Operational Capability (FOC) for the JCASO is scheduled at the end of the 1st quarter FY 2010. It can, if necessary, provide the combatant commander the initial "Joint Contracting Command" (JCC) capability. We will, in the future, have a JCC for all major contingency operations with the senior officer reporting directly to the combatant commander.

Thirdly, to assist the Geographic Combatant Commanders in reviewing requirements and identifying gaps where contractor support capability may be needed, we have allocated fourteen (14) Joint Operational Contract Support Planners (JOCSPPs) among the commands. These planners are helping to integrate required contractor support into plans and synchronize requirements with subordinate commands, the Military Departments, Defense Agencies, other U.S. Government (USG) Agencies, and coalition partners. To date, the planners have reviewed Operational Plans and Concept Plans in each of the commands and are developing an overarching template for an operational contract support annex to be included in the plans. DoD held the second planners' conference in February 2009 which included representatives from all the geographic combatant commands, the joint staff, and service staffs. To insure transparency, we also invited representatives from the Commission on Wartime Contracting and the Government Accountability Office (GAO). The GAO is in the process of

reviewing our efforts that incorporate operational contract support into the different plans.

Finally, we are also making good progress in our transition from manual accounting of contractor personnel to the use of the SPOT tool to track contractor personnel and contractor capability in theater. In August 2008, the U.S. Central Command published a fragmentary order requiring that contractors be registered in SPOT and that those contractors authorized government furnished services obtain a SPOT-generated letter of authorization. These efforts have resulted in an increase of 68,000 (85,000 to 153,000) DoD contractors registered in the USCENTCOM AOR since August. This number reflects about 60% of the contractor population (virtually all U.S. and most third country nationals) reported in the 1st quarter 2009 CENTCOM manual census. Figure 1 is a screenshot from the

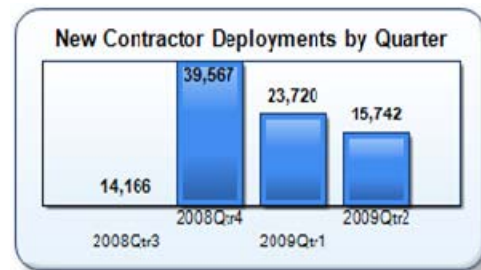


Figure 1

SPOT webpage illustrating the growth in deployed contractor registrations since the publication of the USCENTCOM guidance. Our interagency partners have also made good progress in registering their contractor personnel. DoS has over 7,000 contractors providing support in Iraq and Afghanistan currently registered. USAID has registered approximately 500 contractors performing work in Iraq.

Figures 2 and 3 are screenshots from the SPOT webpage illustrating how contractor movement is tracked using the tool.

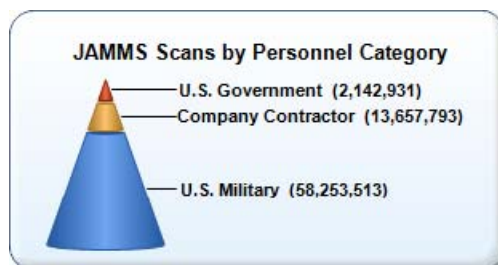


Figure 2

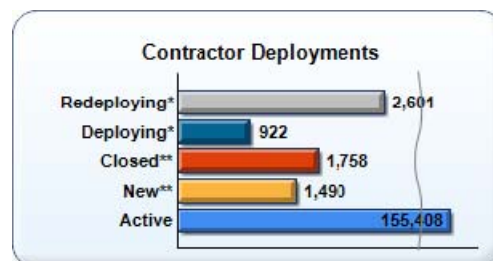


Figure 3

In order to better track third country national and local contractors, we have integrated SPOT with the Biometric Identification System for Access (BISA), an access control system that was already being used extensively in Iraq. To date we have reprinted 60,000 of the 122,000 BISA badges in order to add a barcode that can provide movement transactions to SPOT. As the remaining BISA badges without an interoperable barcode expire, they will be replaced with a badge containing this feature.

Section 861 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2008 (Public Law 110-181)

Now let me return to our implementation of the requirements of Section 861, which are an important part of the larger effort. Section 861 requires the Secretary of Defense, the Secretary of State, and the Administrator of the United States Agency for International Development (USAID), not later than July 1, 2008, enter into a memorandum of understanding (MOU) regarding matters relating to contracting for contracts in Iraq or Afghanistan. The MOU was to address: (1) Identification of the major categories of contracts in Iraq or Afghanistan being awarded by the Department of Defense, the Department of State (DoS), or the United States Agency for International Development (USAID), (2) Identification of the roles and responsibilities of each department or agency for matters relating to contracting for contracts in Iraq or Afghanistan, (3) Responsibility for establishing procedures for, and the coordination of, movement of contractor personnel in Iraq or Afghanistan, and (4) Identification of common databases that will serve as repositories of information on contracts in Iraq or Afghanistan and contractor personnel in Iraq or Afghanistan, including agreement on the elements to be included in the databases.

In July 2008, DoD, DoS, and USAID signed the required MOU which established roles and responsibilities and identified the Synchronized Pre-deployment and Operational Tracker (SPOT) as the common database. We have developed a closer working relationship with our colleagues at DoS and

USAID and, since July, we have made steady and significant progress in our implementation of the MOU.

In order to determine the best way to implement the requirements of Section 861, we conducted extensive analysis on the individual elements. We identified 12 separate requirements. Two of these requirements were already being met by the SPOT system and a further six requirements could be met through added functionality to the SPOT tool. The remaining four requirements required clarification of roles and assignment of responsibilities which could be met through the update of policies and implementing guidance. Let me now provide a bit more detail of these requirements.

The eight requirements that are met by SPOT are listed below:

NDA 2008 Section 861 Requirements Met By SPOT

Source of Requirement	Requirement	SPOT Release Details	Implementation Date and Status
Section 861 (b) (1)	Identification of the major categories of contracts in Iraq or Afghanistan being awarded by DoD, DoS, or USAID	List of major categories has been developed, and a drop down list was added to the Add/Update Contracts Detail page within SPOT. [MoU paragraph IV]	January 2009
Section 861 (b) (4) (A) (i)	With respect to each contract: a brief description of the contract (to the extent consistent with security considerations)	Summary of Services has been changed to a Description box in the Add/Update Contracts Detail page within SPOT, where text may be added by the Contracting Community. [MoU paragraph VII]	January 2009
Section 861 (b) (4) (A) (ii)	With respect to each contract: the total value of the contract	Reports on obligated funds are currently available through FPDSNG. Intend to have an active bridge from FDDSN into SPOT. [MoU paragraph VII]	Data from FPDSNG available now; active bridge expected in 2011
Section 861 (b) (4) (A) (iii)	With respect to each contract: whether the contract was awarded competitively	Check box has been added indicating competitive or non-competitive bid within the Add/Update Contracts Detail page in SPOT. The Contracting Community will assign as appropriate. [MoU paragraph VII]	January 2009
Section 861 (b) (4) (B) (i)	With respect to contractor personnel: the total number of personnel employed on contracts in Iraq or Afghanistan	This function already existed in SPOT. [MoU paragraph VII]	Already a function in SPOT
Section 861 (b) (4) (B) (ii)	With respect to contractor personnel: the total number of personnel performing security functions under contracts in Iraq or Afghanistan	Within the Create New Deploy Page, in the drop down box, "Private Security Contractor - Armed" was added to the list. Additionally, a report has been defined which totals those contractors identified as performing security functions. [MoU paragraph VII]	January 2009

Section 861 (b) (4) (B) (iii)	With respect to contractor personnel: the total number of personnel working under contracts in Iraq or Afghanistan who have been killed or wounded	A list of rationale for leaving post early has been developed and was added to the existing drop down box within in the Plan Re-Deployment page within SPOT. [MoU paragraph VII]	January 2009
Section 861 (d) (3)	The SECDEF, Secretary of State, or the Administrator of the USAID shall provide access to the [database] to the relevant committees of Congress	Reports will be generated and made available on request.	Already a function in SPOT

The update to SPOT (version 6.1.16), with the added functionality required by Section 861, was released in January 2009. In addition, to reflect the changes made to SPOT, a revised set of business rules were published for the user community. There is selected information that cannot be included in the existing SPOT tool. Therefore, and thanks to the support of the House, we were provided funds to develop a classified version of the tool which will be initially deployed this month.

As I mentioned above, the remaining four requirements of Section 861 related to clarification of roles and assignment of responsibilities. These are listed in the table below:

**NDAA 2008 Section 861 Requirements Addressed in the July 2008 MoU
Between DoD, DoS and USAID**

Source of Requirement	Requirement	Addressed by	Also covered In
Section 861 (b) (2)	Identification of the roles and responsibilities of each department or agency for matters relating to contracting for contracts in Iraq or Afghanistan	MOU Paragraph V	
Section 861 (b) (3)	Responsibility for establishing procedures for, and the coordination of, movement of contractor personnel in Iraq or Afghanistan	MOU Paragraph VI	<ul style="list-style-type: none"> • Update to DODI 3020.41, and for PSCs, DODI 3020.pp • Iraq FRAGO • Afghanistan FRAGO
Section 861 (b) (5)	Responsibility for maintaining and updating information in the common databases identified under Section 861 (b) (4)	MOU Paragraph VIII	<ul style="list-style-type: none"> • FAR paragraph (g) (1) • DFARS 252.225-7040 paragraph (g) (1) • Update to DODI 3020.41 • SPOT Business Rules
Section 861 (b) (6)	Responsibility for the collection and referral to the appropriate Government agency of any information relating to offenses under [UCMJ] or [MEJA], including a clarification of responsibilities [of UCMJ].	MOU Paragraph IX	<ul style="list-style-type: none"> • SECDEF Memo March 10, 2008

These requirements have been addressed in the MOU and are being implemented through updates to DoD policies and guidance, changes to the Federal Acquisition Register and the Defense Federal Acquisition Register Supplement, and through theater specific operational implementing instructions.

Section 854 of the 2009 NDAA added three additional requirements to Section 861. These are listed in the table below.

NDAA 2009 Section 854 Requirements (Additions to NDAA08 Section 861(b))

Source of Requirement	Requirement	Plan to Address by
Section 854	Add to: Section 861 (b) (7) Mechanisms for ensuring that contractors are required to report offenses described in [Section 861 (b) (6)] that are alleged to have been committed by or against contractor personnel to appropriate investigative authorities.	<ul style="list-style-type: none"> • Reviewing requirement with DoS • Current update to DODI 3020.41 • Amendment to FAR/DFARS
Section 854	Add to : Section 861 (b) (8) Responsibility for providing victim and witness protection and assistance to contractor personnel in connection with alleged offenses described in [Section 861 (b) (6)].	<ul style="list-style-type: none"> • Reviewing requirement with DoS • Current update to DODI 3020.41 • Amendment to FAR/DFARS
Section 854	Add to : Section 861 (b) (9) Development of a requirement that a contractor shall provide to all contractor personnel who will perform work on a contract in Iraq or Afghanistan, before beginning such work, information on the following: (A) How and where to report an alleged offence described in [Section 861 (b) (6)] (B) Where to seek the assistance required by [Section 861 (b) (8)]	<ul style="list-style-type: none"> • Amendment to FAR/DFARS

We are incorporating these additional requirements into our updated policy on contractors in contingency operations and are also currently working with the DoS and USAID to determine how to best coordinate their implementation to insure consistency of approach.

Outreach

Given the many changing requirements and updates to policy, DoD has placed an emphasis on outreach to the extended contracting community of interest. Senior leaders are kept abreast of changes through the General Officer Steering Committee, which I mentioned earlier. Further, we hold quarterly Operational Contract Support (OCS) community of interest (COI) meetings where new requirements and lessons learned are discussed. This

wider community has played a significant role in helping to incorporate additional requirements and lessons learned into our new and updated policy documents and the revised SPOT business rules.

In addition to the OCS COI, we have used a number of other communities to assist in the outreach effort. First, the Joint Operational Contract Support Planners at each of the combatant commands have served as an added channel of communication for us. My office conducts weekly conference calls with these planners to discuss progress on integrating contractor support into plans and procedures. We also hold a planners' conference bi-annually which is attended by a broad representation of the combatant command staff. Secondly, representatives from my office have travelled to the COCOMs to address their specific issues personally. Finally, we have incorporated the program management approach to OCS, including the use of SPOT for accountability and visibility of contractors, into several exercises.

In terms of interagency outreach and communication, as the proponent for the interagency common database, we regularly meet with DoS and USAID to assist with their assimilation of SPOT. We have met with them at the action officer level, helped to set up training, and discussed the best way for them to utilize and manage the tool.

Of equal importance to our military and interagency outreach efforts has been our communication with the contractor community. Together, DoS and DoD have held meetings with contractor companies. While these meetings were focused on the impact of the Status of Forces Agreement, they also served as a forum to discuss the implementation of Sections 861 and 862. To augment the information distributed at these meetings, we are using the SPOT website homepage to post relevant documents and updated information.

Along with all of these outreach efforts, I have participated in several panel discussions at senior service colleges, the Congressional Research Service seminar, and many defense conferences including the upcoming as the National Defense Industrial Association meeting in order to convey our message to the broadest possible audience.

With respect to institutionalizing OCS training for non-acquisition personnel we are taking a two pronged approach. First, in cooperation with the U.S. Joint Forces Command (JFCOM), Joint Knowledge Development and Distribution Capability (JKDDC) we are establishing an on-line pre-deployment training course for those operational leaders who will interface with contractors in the battlespace. Second, we have incorporated an Operational Contract Support Program of Instruction into the military school curricula. In February 2009, OCS was designated as a Special Area of Emphasis (SAE) by the Military Education Coordination Council. SAEs highlight the concerns of OSD, the Chairman, combatant commands, Defense Agencies, the Military Services, and the Joint Staff regarding coverage of specific joint subject matter in the professional military education colleges. They help ensure the currency and relevance of the colleges' curricula and provide a recommendation on what should be included in the curricula. DoD is now working with Service Schools to determine the best ways to incorporate the OCS Program of Instruction into course work, case studies and exercises.

Finally, in an effort to pull all of the OCS program management initiatives together for the wider community, we are continuing to develop an Operational Contract Support Concept of Operations (CONOPS). The CONOPS outlines how the operational and acquisition communities plan and execute operational contract support during complex operations involving support, not just to the joint force, but to our multinational, other government agency and interagency partners as well. The CONOPS is in final draft and will be available for review by the community of interest in April 2009.

Way Ahead

We acknowledge that in every situation there is always room for improvement, and we are committed to improving our contracting oversight procedures and practices. We continue to execute our strategic goals as outlined in the Section 854 Report to Congress submitted last April. In addition, there are two important ongoing efforts that have our full support. The first undertaking is the Chairman of the Joint Chiefs of Staff Task Force on Dependence on Contractors in Contingency Operations. This Task Force is examining the use of DoD contractors in Iraq and Afghanistan as a focus, but is analyzing across the Range of Military Operations (ROMO) supporting the Joint Force Commander to determine reliance and dependence on contractor support. It is tasked to determine areas of high reliance on contractors, develop more complete Joint Capability Areas (JCAs) and Universal Joint Task Lists (UJTLs), and provide recommendations for further changes to policy and regulations. The second effort is the Commission on Wartime Contracting chartered by the Congress to look at, not just DoD, but all federal agencies' use of contractors and to make specific recommendations. We are working very closely with the Commission. Institutionalization of these changes as well as stable funding for these efforts continues to be a priority. Sections 854 and 861 are "sea changes" in the way we organize, manage, and support.

We urge Congress to let both of these efforts reach their conclusion before developing future statutory direction. With respect to the SPOT database, we ask that Congress consider revising the threshold for contractors to be included in SPOT from those contracts that cost over \$25,000 or last 14 days to those contracts costing over \$250,000 or with a period of performance longer than 30 days. We feel that this increased threshold is more realistic - it would still provide commanders visibility and oversight of key contracts and contractors without requiring a disproportionate effort of trying to account for the entire population. Finally, you may wish to consider extending the MOU reporting

requirements to all federal agencies with contractors in the contingency area of operations.

As I have stated throughout this testimony, we believe we have made significant advances in the program management of operational contract support, although we are not complacent: there is more to be done. We will maintain our working relationship with Congress, the Commission on Wartime Contracting and the GAO to keep you informed of our continued improvements to contingency contracting.

I thank the Members of the Committee for your ongoing support. I would be happy to answer any questions you may have. Thank you.